ARIZONA CORPORATION COMMISSION

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November 9, 2010

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Re: 2011 REST Implementation Plans; Request for additional information in advance of November workshop; Docket Nos. [redacted] E-01750A-10-0264; [redacted]

Dear Parties to the Docket:

Chairman Mayes' October 21, 2010 letter to the docket raised certain questions. I also have questions I would like parties to address at the November workshop, and would appreciate written responses.

I request that you fully discuss the following issues at the November 10th RES discussion:

1. **Transparency issues; possible penalties for non-compliance**. From comments at Open Meetings, there appear to be concerns about the lack of transparency, the lack of penalties for non-performance, and so-called "phantom" projects that developers should have known would never come to fruition. Please provide specific proposals on how these concerns could be ameliorated, and whether the utilities should be required to disclose liquidated or other damages for non-compliance. .[1] If there are cases where liquidated damages are paid to the utility for non-performance, how should those dollars be treated and/or reported? I would also like utilities to comment on whether related entities (such as Pinnacle West) or utility employees or directors have any financial involvement in projects.

2. **Incentive step-downs based on capacity v. number of applications**. APS has requested an incentive step-down based on the number of MW installed. Chairman Mayes' letter asks whether the Commission should consider other factors. I would like stakeholders to discuss whether triggers should be based on the number of systems or installed capacity, and include suggestions for effective triggers.

3. **Increasing the RES to 20% by 2020**. I believe that the Commission should discuss whether Arizona's RES should be increased, and request that utilities provide information on the cost to meet a 20 percent by 2020 standard.

4. **Cost of imported fuel v. in-state-generated solar**. It is my understanding that Arizona currently exports about 33,000 GWh every year to surrounding states. I would appreciate information from utilities on whether the exported electricity is coal, natural gas (peaking or combined cycle) or nuclear. Also, please comment on whether Arizonans would be advantaged by exporting solar or wind power rather than fossil-fueled electricity?[2]

   Staff has informed me, and back-of-the-envelope figures and data from the Energy Information Administration[3] concur with the estimate that Arizonans spend about $1.5

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[1] When the contract between APS and Lockheed Martin for the Starwood Concentrating Solar Power was cancelled, Lockheed Martin paid a substantial fee to APS in liquidated damages.

[2] A case in point is the growing U.S. wind industry. According to the American Wind Energy Association, the percentage of domestically-produced wind components doubled from 2005 to 2009. In 2005, the U.S. imported 80 percent of wind components such as turbine blades and gear boxes; in 2009, domestically-produced wind components increased to 50 percent. http://www.awea.org/supplychain/forces_policy.html

[3] See Arizona-specific data at: http://www.eia.gov/state/state_energy_profiles.cfm?sid=AZ

billion/year to import natural gas for electricity production (this does not include natural gas for heating and commercial use).

A recent study by the Union of Concerned Scientists shows that Arizona imports about two-thirds of its coal.[4] The same study shows that Arizonans spent $77 per person in 2008 to import coal.[5] Table 7 of the same study shows that 25% of Arizonan's electricity use in 2008 was from imported coal.[6]

It's instructive to compare how much Arizonans have spent on fuel with the amount spent on the REST.

I would appreciate comments from parties or stakeholders on this data, and whether you feel that Arizona's spending on natural gas provides the same value as solar.[7] I recognize that data is from different years so comparisons are not exact.

Arizona spending on imported coal/year	$500 million
Arizona spending on imported natural gas/year	$1.5 billion
Arizona spending on 2010 REST implementation plans	$150 million
Arizona spending per person per year on REST	$40-50/year
Arizona spending per person per year on imported coal	$77/year

5. **Are 40% of the monies spent on solar offset by fuel savings?** I believe that APS' RW Beck study shows that 40% of the funds spent on solar are offset by fuel costs. I would appreciate feedback from all stakeholders on whether they agree that 40 percent of the cost of a solar project is offset by fuel savings.

6. **Third Party Administration of RES programs.** I would like parties to discuss Third Party Administration of RES plans. According to analysts Charles Kubert and Mark Sinclair from the Clean Energy States Alliance, here are the types of administrative models are the U.S.:

Frequency of Electric EE and RE Programs by Administrator (Number of States)

Administration Type	EE	RE
Utility	38	6
State Entity	3	14

[4] *Burning Coal, Burning Cash, Ranking the States that Import the Most Coal*, by the Union of Concerned Scientists, Jeff Deyette and Barbara Freese, May 2010, see Table 3, Expenditures on Coal as Fuel for Power Plants (2008) (billion $) page 50 of 58 for amount of coal imported by Arizona ($500 million/year) and coal used in-state ($280 million). http://www.ucsusa.org/assets/documents/clean_energy/Burning-Coal-Burning-Cash_full-report.pdf

5 *Id.*, Table 5 Spending on Net Coal Imports per Capita (2008), page 52 of 58.

[6] *Id.*, Table 7 Net Coal Imports as a Share of Total State Electricity Use (2008)

[7] From 2006 to 2008, the price for natural gas doubled. Although shale gas is currently cheap, and there appears to be a lot of it, Arizona imports all its natural gas and so spending on natural gas does not provide the same value as in-state manufacturing jobs.

Independent Third Party	5	5
No Programs	4	25

Source: Directory of State Incentives for Renewable Energy, 2010-10-31

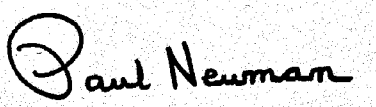
A copy of the memo from the Clean Energy States Alliance is attached. In a nutshell, the advantages of Third Party Administration as outlined in the memo are:

- Greater transparency
- Less conflict for utilities
- Clear performance goals and incentives
- Emphasis on education, which utilities can be reluctant to pursue
- Encourage entrepreneurial culture

Efficiency Vermont is a successful Third Party Administrator (TPA), and has worked successfully with APS.[8] Kubert and Sinclair also point out Winsconsin's program, which is overseen by the Winsconsin Public Service Commission. Like Vermont's program, Winsconsin's TPA is a non-profit. I request that parties comment on TPA programs and why they may or may not work for Arizona.

7. **Please include 1-2 page RES summary and submit all spreadsheets and graphs in native format.** Finally, I would like to suggest that in the future, all REST filings include a one to two page summary of the filing, and for all tables to be filed in native format such as Excel or Power Point. This will help greatly in my full consideration of the docket.

Sincerely,



Paul Newman
Commissioner

[8] See www.efficiencyvermont.org

To: Nancy LaPlaca, Arizona Corporation Commission
From: Charles Kubert and Mark Sinclair, Clean Energy States Alliance
Date: June 9, 2010
Subject: Third Party Administration of Renewable Energy Programs

Arizona currently directs the state's investor-owned utilities to administer solar rebate and other renewable energy incentive programs. However, there is interest on the part of the Arizona Corporation Commission in transferring administration of these programs to independent 3rd-party organizations. The purpose of this memo is to compare these two administrative models and to provide examples in which independent non-utility entities are administering state clean energy programs, either energy efficiency, renewable energy or both.

Administrative Models for Renewable Energy Programs: States have followed one of three administrative models for ratepayer-funded energy efficiency and renewable energy programs: utility, state entities or third-party administrators. A third-party administrator is an independent entity created and/or contracted to design and administer these programs. The table below summarizes the number of states following each of these administrative models:

Frequency of Electric EE and RE Programs by Administrator Type (Number of States)

Administrative Type	EE	RE
Utility	38	6
State Entity	3	14
Independent 3rd Party	5	5
No Programs	4	25

Source: Directory of State Incentives for Renewable Energy, 2010

Disadvantages of Utility Administration: Utility design and administration of energy efficiency programs can and does work in many states if the utilities are given clear performance targets, subject to close regulatory oversight and, ideally, are provided with some form of financial incentive (e.g., revenue decoupling or an ability to earn a rate of return on energy efficiency investments) to align their interests with program performance.

However, successful utility administration of renewable energy programs is much more challenging for several reasons:

- **Least-Cost Resource Planning**: Programs to support distributed renewable energy programs have market transformation and economic development goals. They cannot compete against either energy efficiency or supply-side resources as "least cost resources." Therefore, evaluation and approval of these programs and even individual expenditures can easily get entangled in rate proceedings.
- **Performance Goals**: Although utilities can be given specific and measurable performance goals for renewable energy programs, these need to be backed up with penalties for failing to achieve them.
- **Program Administration vs. Comprehensive Program Delivery**: Utilities may be capable of designing and administering simple rebate programs. However, this needs to be coupled with comprehensive consumer education and marketing, at least at the residential level, activities which utilities may be reluctant to pursue.

Advantages of Independent Administration:

Advantages of the third-party model include:

- **Clear and Specific Mission**: The independent administrator's role and target objectives are clearly spelled out in its contract, and the entity is designed and staffed specifically to administer an EE/RE program.
- **No Conflict of Interest**: An independent entity does not own any generation, transmission or distribution assets. As a result, it has no conflict of interest in promoting programs that increase demand for energy efficiency or distributed generation.
- **Entrepreneurial Culture**: Independent entities may be more likely to think out of the box in the development of programs than state agencies or utilities.
- **Better for Fragmented Utility Markets**: In states that have a large number of utilities, a third party administrator would reduce administrative redundancy and provide a unified market presence relative to standalone programs for each utility.
- **Performance Incentives**: A public utility commission can design financial incentives for a third-party contractor that meets or exceeds performance goals. Independent contractors bid for the right to administer the program and are subject to performance reviews and contract termination.
- **Transparency**: Depending on the structure of the contract, independent administrators have independent boards, may be more open to stakeholder input in program design, more subject to program financial audits and willing to provide more frequent and detailed program evaluation reports.

Case Studies: The following case studies describe energy efficiency and renewable energy programs being successfully administered by independent entities.

Vermont Energy Investment Corporation: VEIC is a non-profit energy efficiency consulting and planning firm based in Burlington. In 2000, the Vermont legislature and Public Service Board created Efficiency Vermont, a statewide "energy efficiency utility", and established a 3% public benefits charge to support this program. VEIC bid for and was awarded the contract to administer the program and has been subsequently been awarded renewal contracts.

VEIC develops a comprehensive plan and evaluation reports each year, all of which are available to the public on their website. (http://www.efficiencyvermont.org/pages/Common/AboutUs/AnnualReport/).

The program has significant oversight and independent evaluation. Although the contractor tracks and reports results annually, The Public Service Board requires an independent evaluator to verify energy savings annually and comprehensively review program results every three years. In addition, the program has an annual financial audit and utilizes an independent contract administrator to review invoices.

VEIC'S activities go well beyond rebate processing. It has a large staff that develops comprehensive marketing programs, works with retailers and provides technical assistance to homebuilders and commercial and industrial facility owners. Efficiency Vermont is often held up as a "best in the nation" energy efficiency program because of this approach, high level of spending and, most importantly , the highest level of energy savings among all programs.

Wisconsin Energy Conservation Corporation: Wisconsin has a statewide energy efficiency and renewable energy program (Focus on Energy) supported through a 1.5% systems benefit charge and

overseen by the Wisconsin Public Service Commission. The Statewide Energy Efficiency and Renewable Administration (SEERA) was formed by the obligated utilities to aggregate funds for the program and select one or more program administrators. SEERA selected Wisconsin Energy Conservation Corporation (www.weccusa.org) to be the principal administrator of these programs. WECC, like VEIC, is a non-profit entity that provides energy efficiency planning and consulting services in addition to direct administration of Focus on Energy and programs in other states. The program also utilizes an independent evaluator and a fiscal agent to review and approve invoices. The evaluator prepares annual impact and benefit/cost reports for each broad market segment as well as the programs overall; these are all available on the Focus on Energy website (http://www.focusonenergy.com/EvaluationReports/default.aspx).

Energy Trust of Oregon: Energy Trust of Oregon (www.energytrust.org) began operation in March 2002, charged by the Oregon Public Utility Commission (OPUC) with investing in cost-effective energy conservation, helping to pay the above-market costs of renewable energy resources, and encouraging energy market transformation in Oregon. Energy Trust funds come from a 1999 energy restructuring law, which required Oregon's two largest investor-owned utilities to collect a three percent "public purpose charge" from their customers. The law also dedicated a separate portion of the public-purpose funding to energy conservation efforts in low-income housing energy assistance and K-12 schools. In addition to its work under the 1999 energy restructuring law, Energy Trust administers gas conservation programs for residential and commercial customers of NW Natural (as of 2003) and Cascade Natural Gas Corporation (as of 2006).

ETO was not a pre-existing non-profit entity but was rather created as a result of the law and PUC order. While it is a wholly independent entity with its own Board of Directors, it is responsible for meeting performance targets established by the OPUC (http://apps.puc.state.or.us/orders/2008ords/08-529.pdf) and is accountable for reporting program results to both the OPUC and the state legislature. While the OPUC has an ex officio member of ETO's board, it does not approve either the program budget or individual program expenditures.

In addition to reporting on actual program results against targets established by the OPUC, the OPUC seeks annual public comment on the following non-quantitative metrics:

- Does ETO conduct its business in an open and transparent manner?
- Is ETO receptive to public input?
- Are program benefits reasonably spread across customer classes and geographic areas?
- Is ETO complying with the guidelines set forth in the Grant Agreement?
- Are there any significant issues that warrant the issuance of a Notice of Concern?
- Should the Grant Agreement be renewed for an additional year?

Pennsylvania Sustainable Development Fund: The Pennsylvania Public Utility Commission created the Sustainable Development Fund (SDF) in its final order of the PECO Energy electric utility restructuring proceeding.. SDF later received additional funding and responsibilities as a result of the PECO Energy/Unicom merger settlement. That settlement added funding for new wind development, for solar photovoltaics and for renewable energy education, as well as a lump-sum payment and an increase in SDF's core fund. In total, the fund has received approximately $31.8 million in income over its lifetime.

The SDF is managed by The Reinvestment Fund (www.trfund.org) , a non-profit community development financial institution (CDFI) which operates in multiple Mid-Atlantic markets. As a non-profit lender, TRF is focused on providing financing assistance for renewable energy and energy efficiency projects and manufacturers, in the form of loans and various credit enhancement tools. It does not operate rebate or other direct incentive programs for residential or small commercial projects. Because it does not receive annual ratepayer funding, it is not responsible for annual reporting to the PUC.

Hawaii: Hawaii has recently transitioned the administration of its energy efficiency and renewable energy programs from the investor-owned utility to an independent administrator, R.W. Beck, a subsidiary of Science Applications International Corporation (SAIC), a Fortune 500 company. The program is run under the overall program name "Hawaii Energy" and is part of Hawaii's overall Clean Energy Initiative. The program offers prescriptive rebates for a variety of energy efficiency measures as well as solar hot water systems. The contractor has an initial three-year contract to administer the program which has a value of $38 million for the first two years.

Hawaii's solar pv program as well as other renewable energy initiatives remain the responsibility of Hawaiian Electric.

Conclusions: While a state renewable energy program can be administered under several models, there are some significant advantages to a third-party mode including a singular focus on program goals, greater program transparency and an incentive structure that rewards program performance. Some of the country's leading efficiency and renewable energy programs are being run under this third-party model. We encourage the Arizona Corporation Commission to look more closely at these examples in determining whether it may be appropriate to transfer administration of its renewable energy programs from the utilities to an outside entity.